



13 SEP 2002

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In re Application of:	:	
McCormack et al.	:	
Application No.: 09/890,126	:	DECISION
PCT No.: PCT/IE00/00012	:	
Int. Filing Date: 28 January 2000	:	UNDER
Priority Date: 29 January 1999	:	
Atty. Docket No.: None	:	37 CFR 1.47
For: Electrical Energy Meter	:	

This is in response to the "Petition Under 37 CFR § 1.47(a)" filed on 20 February 2002.

BACKGROUND

This international application was filed on 28 January 2000, and claimed an earliest priority date of 29 January 1999. A copy of the published international application was transmitted to the USPTO on 03 August 2000. A Demand electing the United States was filed on 18 August 2000, which was prior to the elapse of 19 months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired as of midnight on 29 July 2001.

On 27 July 2001, applicants filed the basic national fee accompanied by, *inter alia*, a Transmittal Letter.

On 07 September 2001, a Notification of Missing Requirements was transmitted to applicants, requiring the submission of an oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

Applicants filed the instant papers and surcharge under 37 CFR 1.492(e) on 20 February 2002.

On 11 March 2002, a Notification of Acceptance was mailed to applicants, indicating that this application was entitled to a 35 U.S.C. 371 date of 20 February 2002.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR

1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Petitioner has satisfied requirements (1), (2), (3) and (4).

Regarding requirement (1), the petition fee is being charged to counsel's Deposit Account No. 50-1479, as authorized by the papers filed on 20 February 2002. Thus, requirement (1) has been satisfied.

Regarding requirement (2), review of the record reveals that non-signing joint inventor Michael McCormack has refused to execute a declaration after being presented with the declaration and a copy of international application. As such, requirement (2) has been satisfied.

Regarding requirement (3), the petition includes a statement of Mr. McCormack's last known address.

Regarding requirement (4), the declaration is acceptable for purposes of compliance with 35 U.S.C. 371. However, the declaration includes a claim of priority under 35 U.S.C. 120 to application number 09/377,108. This priority claim appears to be improper in that the instant application (09/890,126) shares no inventor(s) in common with the previous application (09/377,108); thus, the declaration may not be acceptable under 37 CFR 1.63.

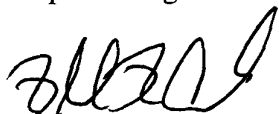
CONCLUSION

The petition is GRANTED.

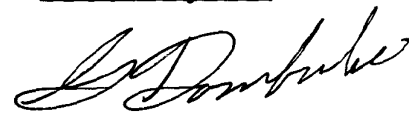
The \$130.00 petition fee is being charged to counsel's Deposit Account No.50-1479.

The Notification of Acceptance mailed on 11 March 2002 was inappropriate and is hereby VACATED.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of the application under 35 U.S.C. 371 is 20 February 2002.



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